

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VARISITY GOLD, INC.,

Plaintiff,

v.

ERIC BIGHAM, individually; and ELMER
BIGHAM, individually and on behalf of his
marital community, collectively dba Next Level
Fundraising,

Defendants.

CASE NO. C06-0509RSM

ORDER ON DEFENDANTS' THIRD
MOTION FOR A PROTECTIVE
ORDER

This matter is before the Court for consideration of defendants' third motion for a protective order. Dkt. # 102. This motion arises from the Court's October 12, 2006 Order on plaintiff's motion to compel, stating that "defendants shall respond in full, **and without objections other than those already stated**, to plaintiff's interrogatories and requests for production." Dkt. # 50, p. 4 (emphasis added). This is the fourth time that defendants have challenged the effect of that language upon their assertion of attorney-client privilege with respect to documents. Dkt. # 51, 61, 62. However, this is the first time the Court has had an opportunity to reach the merits of the motion; previous orders were based on procedural considerations or constrained by the local rules.

The Court has reviewed the documents requested by plaintiffs, and withheld (or redacted) by defendants, *in camera*. The documents are copies of e-mails between counsel and client, and consist

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1 mostly of discussion of litigation strategy and the relative merits of the parties' positions. The Court finds
2 little if anything in these e-mails that is relevant to plaintiff's claims in this case. To any extent that
3 certain material may be relevant, such as a discussion of defendants' customer lists, it is obtainable by
4 other means. Further, any limited probative value of the information in the e-mails is greatly outweighed
5 by the prejudice to defendants of disclosing their litigation strategy and their view of the strength of their
6 case.

7 Accordingly, defendants' third motion for a protective order is GRANTED. Defendants need not
8 respond further to plaintiffs's discovery request by disclosing unredacted copies of the documents
9 presented to chambers for *in camera* review.

10 Dated this 23rd day of May, 2007.

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13 RICARDO S. MARTINEZ
14 UNITED STATES DISTRICT JUDGE
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